

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

FEB 14 2018

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DEPUTY
SPOKANE, WASHINGTON

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RODOLFO RAMIREZ, Jr.,

Defendant.

No.: 2:17-CR-00230-TOR

PLEA AGREEMENT

Plaintiff, United States of America, by and through Joseph H. Harrington,
United States Attorney for the Eastern District of Washington, and James A. Goeke,
Assistant United States Attorney for the Eastern District of Washington, and
Defendant RODOLFO RAMIREZ, Jr., and Defendant's counsel, John Stephen
Roberts, agree to the following Plea Agreement pursuant to Federal Rule of Criminal
Procedure 11(c)(1)(C):

1. Guilty Plea and Maximum Statutory Penalties:

Defendant RODOLFO RAMIREZ, Jr., agrees to plead guilty to Count 1 of the
Indictment in this case charging Defendant with: Felon in Possession of a Firearm, in
violation of 18 U.S.C. § 922(g)(1). Defendant understands that Felon in Possession of
a Firearm, in violation of 18 U.S.C. § 922(g)(1), is a Class C felony which carries a

1 term of up to ten years imprisonment; a fine not to exceed \$250,000; not more than
2 three years of supervised release; restitution; and a \$100.00 special penalty
3 assessment. Defendant RODOLFO RAMIREZ, Jr., understands that a violation of a
4 condition of supervised release carries an additional penalty of re-imprisonment for all
5 or part of the term of supervised release without credit for time previously served on
6 post-release supervision.

7 2. The Court is Not a Party to the Agreement:

8 The Court is not a party to this Plea Agreement and may accept or reject this
9 Plea Agreement. Sentencing is a matter that is solely within the discretion of the
10 Court. Defendant understands that the Court is under no obligation to accept any
11 recommendations made by the United States and/or by Defendant; that the Court will
12 obtain an independent report and sentencing recommendation from the United States
13 Probation Office; and that the Court may, in its discretion, impose any sentence it
14 deems appropriate up to the statutory maximums stated in this Plea Agreement.

15 Defendant acknowledges that no promises of any type have been made to
16 Defendant with respect to the sentence the Court will impose in this matter.
17 Defendant understands that the Court is required to consider the applicable sentencing
18 guideline range, but may depart upward or downward under the appropriate
19 circumstances.

20 Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the United States and Defendant agree
21 to recommend that Defendant RODOLFO RAMIREZ, Jr., be sentenced to a term of
22 imprisonment of not less than 18 months incarceration and not more than 24 months
23 incarceration.

24 If the Court does not accept Defendant's guilty plea, does not accept the Plea
25 Agreement, or chooses to sentence Defendant to a greater or lesser sentence of
26 incarceration than the United States and Defendant have agreed upon, the Defendant
27 and the United States may each withdraw from the Plea Agreement and the Plea
28 Agreement shall be null and void.

1 3. Waiver of Constitutional Rights:

2 Defendant, RODOLFO RAMIREZ, Jr., understands that by entering this plea of
3 guilty the Defendant is knowingly and voluntarily waiving certain constitutional
4 rights, including:

- 5 (a). The right to a jury trial;
6 (b). The right to see, hear and question the witnesses;
7 (c). The right to remain silent at trial;
8 (d). The right to testify at trial; and
9 (e). The right to compel witnesses to testify.

10 While Defendant is waiving certain constitutional rights, Defendant understands
11 Defendant retains the right to be assisted through the sentencing and any direct appeal
12 of the conviction and sentence by an attorney, who will be appointed at no cost if
13 Defendant cannot afford to hire an attorney. Defendant also acknowledges that any
14 pretrial motions currently pending before the Court are waived.

15 4. Elements of the Offense:

16 The United States and Defendant agree that in order to convict Defendant of
17 Felon in Possession of a Firearm, in violation of 18 U.S.C. § 922(g)(1), the United
18 States would have to prove beyond a reasonable doubt the following elements:

- 19 (a) First, on or about July 1, 2016 in the Eastern District of
20 Washington, Defendant knowingly possessed a firearm, to wit a
21 Taurus, model 45-410 "The Judge," .45 Long Colt/.410
22 caliber/gauge revolver, bearing serial number AR492724;
23 (b) Second, at the time Defendant possessed the firearm, Defendant
24 had been previously convicted of a crime punishable by
25 imprisonment for a term exceeding one year; and,
26 (c) Third, the firearm had been shipped and transported in interstate
27 and foreign commerce.
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1 5. Factual Basis and Statement of Facts:

2 The United States and the Defendant stipulate and agree that the following facts
3 are accurate; that the United States could prove these facts beyond a reasonable doubt
4 at trial; and these facts constitute an adequate factual basis for Defendant RODOLFO
5 RAMIREZ, Jr.'s guilty plea:

6 On July 1, 2016, Defendant RODOLFO RAMIREZ, Jr. was interviewed after
7 advisement of this *Miranda* rights following during the investigation of a shooting
8 incident in Grant County, Washington in the Eastern District of Washington.
9 RODOLFO RAMIREZ, Jr. stated that earlier on July 1, 2016, his vehicle broke down
10 and while parked alongside the road, another vehicle approached and a male in the
11 vehicle challenged RODOLFO RAMIREZ, Jr. regarding his gang status. The other
12 male then reached for something in the vehicle and RODOLFO RAMIREZ, Jr. then
13 heard "firing". RODOLFO RAMIREZ, Jr. admitted breaking into a nearby house and
14 stealing a firearm. RODOLFO RAMIREZ, Jr. claimed he took the firearm out of fear
15 for his life. RODOLFO RAMIREZ, Jr. stated he left the firearm he took on the
16 doorstep of another nearby house, where it was later recovered by law enforcement.
17 The firearm RODOLFO RAMIREZ, Jr. possessed on July 1, 2016 is a Taurus, model
18 45-410 "The Judge", .45 Long Colt/.410 caliber/gauge revolver, bearing serial number
19 AR492724, made in Brazil.

20 Prior to July 1, 2016, RODOLFO RAMIREZ, Jr., had been convicted of
21 multiple crimes for which he could have received a sentence in excess of one year in
22 prison, to include the following convictions: 1) Assault-Second Degree and Burglary
23 Second-Degree, Grant County Superior Court (December 21, 2004); 2) Malicious
24 Mischief-First Degree and Assault-Third Degree, Grant County Superior Court
25 (February 8, 2005); 3) Malicious Mischief-Second Degree, Grant County Superior
26 Court (May 10, 2005); 4) Custodial Interference-First Degree, Grant County Superior
27 Court (May 10, 2005); 5) Possession of a Controlled Substance-Methamphetamine,
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1 Grant County Superior Court (April 11, 2006); and, 6) Criminal Mischief-Deadly
2 Weapon, Grant County Superior Court (February 23, 2015).

3 This statement of facts does not preclude either party from presenting and
4 arguing, for sentencing purposes, additional facts which are relevant to the guideline
5 computation or sentencing, unless otherwise prohibited in this agreement.

6 6. The United States Agrees:

7 The United States Attorney's Office for the Eastern District of Washington
8 agrees not to bring any additional charges against Defendant based upon information
9 in its possession at the time of this Plea Agreement and arising out of Defendant's
10 conduct involving illegal activity charged in the Indictment in this matter, unless
11 Defendant breaches this Plea Agreement any time before sentencing.

12 7. United States Sentencing Guideline Calculations:

13 Defendant understands and acknowledges that the United States Sentencing
14 Guidelines (hereinafter "USSG" or "Sentencing Guidelines") are applicable to this
15 case and that the Court will determine the Defendant's applicable Sentencing
16 Guidelines range at the time of sentencing. Defendant understands that the Court is
17 not bound to impose a sentence consistent with the USSG calculations.

18 (a.) Base Offense Level:

19 The United States and Defendant have no agreement regarding the base offense
20 level under the USSG.

21 (b.) Guideline Adjustments:

22 The United States and Defendant have no agreement regarding any applicable
23 USSG enhancements or USSG reductions. The parties agree and acknowledge that
24 various enhancements and/or reductions may apply under the USSG and each party is
25 free to argue for any additional reductions and/or enhancements under the USSG that
26 either party believes are appropriate.

(c.) Acceptance of Responsibility:

If Defendant pleads guilty and demonstrates a recognition and an affirmative acceptance of personal responsibility for the criminal conduct; provides complete and accurate information during the sentencing process; does not commit any obstructive conduct; accepts this Plea Agreement; and provides written notification that he intends to enter a plea of guilty no later than February ¹⁴ 6, 2018, the United States will move for a two (2) level downward adjustment in the offense level for the Defendant's timely acceptance of responsibility, pursuant to USSG §3E1.1(a) and an additional one (1) level downward adjustment pursuant to USSG §3E1.1 (b) if the Court determines the Defendant's adjusted offense level is 16 or higher.

Defendant and the United States agree that the United States may at its option and upon written notice to Defendant, not recommend a two (2) or three (3) level downward reduction for acceptance of responsibility if, prior to the imposition of sentence, Defendant is charged or convicted of any criminal offense whatsoever or if Defendant tests positive for any controlled substance.

Furthermore, Defendant agrees to pay the \$100 mandatory special penalty assessment for each count of conviction to the Clerk of Court for the Eastern District of Washington, at or before sentencing, and shall provide a receipt from the Clerk to the United States before sentencing as proof of this payment, as a condition to this recommendation by the United States.

(d.) Criminal History:

The United States and the Defendant understand that the Defendant's criminal history computation is tentative and that ultimately the Defendant's criminal history category will be determined by the Court after review of the Pre-Sentence Investigative Report ("PSR"). As of this date, the facts regarding the Defendant's criminal history are related in the Pretrial Services Report in this case. The United States and the Defendant have made no agreement as to the criminal history category, which shall be determined after the PSR is completed.

1 (e.) Guideline Range:

2 The parties have no agreement regarding the applicable sentencing range under
3 the USSG. Again, the parties also have no agreement regarding the Defendant's
4 criminal history. Defendant also understands that the Court will ultimately determine
5 the applicable sentencing guideline range and is not bound to follow the
6 recommendations of the parties and that the Court may also depart or vary upward or
7 downward under the appropriate circumstances from the applicable advisory
8 sentencing range.

9 8. Departures:

10 The parties have no agreement regarding departures under the United States
11 Sentencing Guidelines and the parties have no agreement regarding variances under
12 18 U.S.C. § 3553. The parties may seek any sentence of incarceration pursuant to
13 Fed. R. Crim. P. 11(c)(1)(C) within the range of not less than 18 months incarceration
14 and not more than 24 months incarceration.

15 9. Incarceration:

16 (a.) Length of Imprisonment:

17 The United States and Defendant agree pursuant to Fed. R. Crim. P. 11(c)(1)(C)
18 to recommend that Defendant be sentenced to a term of imprisonment of not less than
19 18 months incarceration and not more than 24 months incarceration.

20 (b.) Bureau of Prison Recommendations:

21 The United States Attorney's Office for the Eastern District of Washington
22 acknowledges that Defendant may intend to request the Court recommend that the
23 Defendant be allowed to serve any sentence of imprisonment at a specific institution.
24 Defendant understands that any decision concerning Defendant's place of
25 incarceration is within the exclusive province of the Bureau of Prisons.
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1 10. Criminal Fine:

2 The United States and Defendant have no agreement concerning a criminal fine.
3 The United States is free to advocate for a criminal fine and the Defendant is free to
4 oppose a criminal fine.

5 11. Supervised Release and/or Probation:

6 Defendant understands that the United States will request a maximum term of
7 supervised release to include the following special condition, in addition to whatever
8 other special conditions the Court may impose and in addition to the standard
9 conditions of supervised release: the Defendant's person, residence, office, vehicle,
10 and belongings are subject to search at the direction of the Probation Officer.

11 The United States is free to recommend additional special conditions of
12 supervised release at the time of sentencing and during the period of supervised
13 release. Defendant is free to oppose any additional conditions of supervision at the
14 time of sentencing and during the period of supervised release and is free to make any
15 recommendation concerning the length of supervised release.

16 12. Mandatory Special Penalty Assessment:

17 Defendant agrees to pay the \$100 mandatory special penalty for each count of
18 conviction to the Clerk of Court for the Eastern District of Washington, at or before
19 sentencing, pursuant to 18 U.S.C. § 3013 and shall provide a receipt from the Clerk to
20 the United States before sentencing as proof of this payment.

21 13. Payments While Incarcerated:

22 If Defendant lacks the financial resources to pay the monetary obligations
23 imposed by the Court, Defendant agrees to earn the money to pay toward these
24 obligations by participating in the Bureau of Prisons' Inmate Financial Responsibility
25 Program.

1 14. Restitution:

2 The parties have no agreement regarding restitution. The United States is free
3 to request any restitution amount authorized by statute.

4 15. Additional Violations of Law Can Void Plea Agreement:

5 Defendant and the United States agree that the United States may at its option
6 and upon written notice to Defendant, withdraw from this Plea Agreement or modify
7 its recommendation for sentence if, prior to the imposition of sentence, Defendant is
8 charged or convicted of any criminal offense whatsoever or if Defendant tests positive
9 for any controlled substance.

10 16. Waiver of Appeal and Collateral Attack Rights:

11 Defendant understands that he has a limited right to appeal or challenge the
12 conviction and sentence imposed by the Court. Defendant hereby expressly waives
13 his right to appeal his conviction, any restitution order, and the sentence of
14 incarceration the Court imposes, provided any sentence of incarceration is not less
15 than 18 months imprisonment and not more than 24 months imprisonment. Defendant
16 further expressly waives his right to file any post-conviction motion attacking his
17 conviction and sentence, including a motion pursuant to 28 U.S.C. § 2255, except one
18 based upon ineffective assistance of counsel based on information not now known by
19 Defendant and which, in the exercise of due diligence, could not be known by
20 Defendant by the time the Court imposes the sentence.

21 17. Integration Clause:

22 The United States and Defendant acknowledge that this document constitutes
23 the entire Plea Agreement between the United States and Defendant, and no other
24 promises, agreements, or conditions exist between the United States and Defendant
25 concerning the resolution of the case. This Plea Agreement is binding only upon the
26 United States Attorney's Office for the Eastern District of Washington, and cannot
27 bind other federal, state or local authorities. The United States and Defendant agree
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1 that this agreement cannot be modified except in a writing that is signed by the United
2 States and the Defendant.

3 Approvals and Signatures

4 Agreed and submitted on behalf of the United States Attorney's Office for the
5 Eastern District of Washington.

6 JOSEPH H. HARRINGTON
United States Attorney

7 
8 James A. Goeke
9 Assistant U.S. Attorney

10 Date

Feb. 7, 2018

11 I have read this Plea Agreement and have carefully reviewed and discussed
12 every part of the agreement with my attorney. I understand and voluntarily enter into
13 this Plea Agreement. Furthermore, I have consulted with my attorney about my
14 rights, I understand those rights, and I am satisfied with the representation of my
15 attorney in this case. No other promises or inducements have been made to me, other
16 than those contained in this Plea Agreement and no one has threatened or forced me in
17 any way to enter into this Plea Agreement. I am agreeing to plead guilty because I am
18 guilty.

19 
RODOLFO RAMIREZ, Jr.
20 Defendant

21 Date

2-7-18

22 I have read this Plea Agreement and have discussed the contents of the
23 agreement with my client. The Plea Agreement accurately and completely sets forth
24 the entirety of the agreement between the parties. I concur in my client's decision to
25 plead guilty as set forth in the Plea Agreement. There is no legal reason why the
26 Court should not accept the Defendant's plea of guilty.

27 
John Stephen Roberts
28 Attorney for the Defendant

Date

2/7/18